

***What Every Member of the
Trade Community Should Know About:***

Cane and Beet Sugar

Quota, Classification and Entry



An Advanced Level
Informed Compliance Publication of the
U.S. Customs Service

Revised February, 2000

NOTICE:

This publication is intended to provide guidance and information to the trade community. It reflects the Customs Service's position on or interpretation of the applicable laws or regulations as of the date of publication, which is shown on the front cover. It does not in any way replace or supersede those laws or regulations. Only the latest official version of the laws or regulations is authoritative.

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PREFACE

On December 8, 1993, Title VI of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), also known as the Customs Modernization or “Mod” Act, became effective. These provisions amended many sections of the Tariff Act of 1930 and related laws.

Two new concepts that emerge from the Mod Act are “***informed compliance***” and “***shared responsibility***,” which are premised on the idea that in order to maximize voluntary compliance with Customs laws and regulations, the trade community needs to be clearly and completely informed of its legal obligations. Accordingly, the Mod Act imposes a greater obligation on Customs to provide the public with improved information concerning the trade community's rights and responsibilities under the Customs and related laws. In addition, both the trade and Customs share responsibility for carrying out these requirements. For example, under Section 484 of the Tariff Act as amended (19 U.S.C. §1484), the importer of record is responsible for using reasonable care to enter, classify and determine the value of imported merchandise and to provide any other information necessary to enable Customs to properly assess duties, collect accurate statistics, and determine whether other applicable legal requirements, if any, have been met. The Customs Service is then responsible for fixing the final classification and value of the merchandise. An importer of record's failure to exercise reasonable care could delay release of the merchandise and, in some cases, could result in the imposition of penalties.

The Office of Regulations and Rulings has been given a major role in meeting Customs informed compliance responsibilities. In order to provide information to the public, Customs has issued a series of informed compliance publications, and videos, on new or revised Customs requirements, regulations or procedures, and a variety of classification and valuation issues.

The National Commodity Specialist Division of the Office of Regulations and Rulings has prepared this publication on ***Cane and Beet Sugar*** as part of a series of informed compliance publications regarding the classification and origin of imported merchandise. We sincerely hope that this material, together with seminars and increased access to Customs rulings, will help the trade community to improve, as smoothly as possible, voluntary compliance with Customs laws.

The material in this publication is provided for general information purposes only. Because many complicated factors can be involved in customs issues, an importer may wish to obtain a ruling under Customs Regulations, 19 CFR Part 177, or to obtain advice from an expert who specializes in customs matters, for example, a licensed customs broker, attorney or consultant. Reliance solely on the information in this pamphlet may not be considered reasonable care.

Comments and suggestions are welcomed and should be addressed to the Assistant Commissioner at the Office of Regulations and Rulings, U.S. Customs Service, 1300 Pennsylvania Avenue, NW, Washington, D.C. 20229.

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INTRODUCTION

When goods are imported into the Customs Territory of the United States (the fifty states, the District of Columbia and Puerto Rico), they are subject to certain formalities involving the U.S. Customs Service. In almost all cases, the goods are required to be “entered,” that is, declared to the Customs Service, and are subject to detention and examination by Customs officers to insure compliance with all laws and regulations enforced or administered by the United States Customs Service. As part of the entry process, goods must be “classified” (determined where in the U.S. tariff system they fall) and their value must be determined. Pursuant to the Customs Modernization Act, it is now the responsibility of the importer of record to use “reasonable care” to “enter,” “classify” and “value” the goods and provide any other information necessary to enable the Customs Service to properly assess duties, collect accurate statistics, and determine whether all other applicable legal requirements are met.

Classifying goods is important not only for duty purposes, but also to determine whether the goods are subject to quotas, restraints, embargoes or other restrictions. The act of classifying goods is complex and requires an importer to be familiar with the *Harmonized Tariff Schedule of the United States* (HTSUS), its 99 chapters, rules of interpretation, and notes. A detailed discussion of the HTSUS may be found in a companion publication entitled, *What Every Member of the Trade Community Should Know about Tariff Classification*. Customs valuation requirements are separately discussed in a companion publication entitled, *What Every Member of the Trade Community Should Know about Customs Value*. Both of these publications are available from the Customs World Wide Web pages on the Internet (see the Additional Information section for information on accessing these sources and obtaining additional Customs Service publications).

Sugars are products which may be classified in **chapter 17, chapter 21** or in **chapter 29** of the Harmonized Tariff Schedule of the United States (HTSUS). The sugars of chapter 17 include products such as sucrose, glucose, fructose, lactose and maltose. The sugars of chapter 21 include syrups which contain added coloring or flavoring matter. The sugars of chapter 29 include products such as chemically pure galactose, sorbose, xylose and raffinose.

Classification depends on the **type** of sugar, the **form** of the sugar and the **source** of the sugar.

While there are many types of sugar, **only sucrose is subject to a quota**. Sucrose can be obtained from a variety of sources, including sugar cane, sugar beets, maple sugar, sorghum, carob beans and palms.

This publication covers the quota, classification and entry requirements of **sucrose derived from sugar cane and sugar beets**.

Presidential Proclamation 6179

Presidential Proclamation 6179 dated September 13, 1990 established a tariff rate quota on sucrose derived from sugar cane or sugar beets effective October 1, 1990. The Proclamation set a lower tariff rate of duty for sucrose entered up to a specified quota level, and a significantly higher rate of duty for sucrose entered in excess of the quota allocation.

The quota applies to sucrose in both **dry** and **liquid** forms, which are classified in chapter 17 and chapter 21 of the HTSUS. The quota period begins on **October 1** and extends to **September 30** of the next year.

Entries of sucrose classified under both the low and high tariff rates must be reported to the Customs Quota Section in Customs Headquarters.

Chapter 17 HTSUS, Additional U.S. Note 5

Additional U. S. Note 5 of chapter 17 describes the modifications of the duty rates and quantitative limitations that are contained in the Proclamation. Additional U.S. Note 5 (a)(i) states:

The aggregate quantity of raw cane sugar entered, or withdrawn from warehouse for consumption, under subheading 1701.11.10, during any fiscal year, shall not exceed in the aggregate an amount (expressed in terms of raw value), as shall be established by the Secretary of Agriculture (hereinafter referred to as "the Secretary"), and the aggregate quantity of sugars, syrups and molasses entered, or withdrawn from warehouse for consumption, under subheadings 1701.12.10, 1701.91.10, 1701.99.10, 1702.90.10 and 2106.90.44, during any fiscal year, shall not exceed in the aggregate an amount (expressed in terms of raw value), as shall be established by the Secretary. With either the aggregate quantity of raw cane sugar or the aggregate quantity for sugars, syrups and molasses other than raw cane sugar, the Secretary may reserve a quota quantity for the importation of specialty sugars as defined by the United States Trade Representative.

Additional U.S. Note 5(a)(i) provides for three different quota allocations. The **first quota allocation** covers raw cane sugar provided for in **subheading 1701.11.10**. This quota is allocated on a country by country basis by the United States Trade Representative, **as published in the Federal Register**, pursuant to Additional U.S. Note 5(b)(i).

In alphabetical order, the countries **currently** with an allocation under this quota are: **Argentina, Australia, Barbados, Belize, Bolivia, Brazil, Colombia, Congo, Côte**

d'Ivoire, Costa Rica, Dominican Republic, Ecuador, El Salvador, Fiji, Gabon, Guatemala, Guyana, Haiti, Honduras, India, Jamaica, Madagascar, Malawi, Mauritius, Mexico, Mozambique, Nicaragua, Panama, Papua New Guinea, Paraguay, Peru, Philippines, South Africa, St. Kitts & Nevis, Swaziland, Taiwan, Thailand, Trinidad-Tobago, Uruguay and Zimbabwe.

Certificate of Quota Eligibility

Additional U.S. Note 5(b)(iv) states:

The United States Trade Representative may promulgate regulations appropriate to provide for the allocations authorized pursuant to this note. Such regulations may, among other things, provide for the issuance of certificates of eligibility to accompany any sugars, syrups or molasses (including any specialty sugars) imported from any country or area for which an allocation has been provided and for such minimum quota amounts as may be appropriate to provide reasonable access to the U.S. market for articles the product of those countries or areas having small allocations.

In addition to having a raw sugar produced in a country with a quota allocation, **a Certificate of Quota Eligibility (CQE)** is required in order to qualify for the low tariff rate under subheading 1701.11.10. The CQE is obtained by the importer from the country producing the raw sugar.

The Certificates are furnished to the various countries by The United States Department of Agriculture (USDA). Each CQE is numbered and identified by foreign country. It contains information which includes the date of the current quota period, the shipper, the vessel, the port of loading, the name and address of the consignee, date of departure, etc.

A CQE is only valid for the quota period it covers. It must be presented at the time of entry. No bond may be taken for this document.

Note that a country, without a quantity allocation under this quota, may export raw cane sugar to the United States provided that the high tariff rate duties are paid. A CQE is not required in this case. This does not apply to any country subject to a United States **embargo**.

The **second quota allocation** provided by Additional U.S. Note 5(a)(i) pertains to subheadings **1701.12.10, 1701.91.10, 1701.99.10, 1702.90.10, and 2106.90.44**. This quota allocation is sometimes referred to as the **"Refined Sugar Quota"**, but as we will see later, it covers more than simply refined sugar. With two exceptions, this quota is allocated on a global, first come, first serve basis. As a result, the quota opens and fills on the same day.

The two exceptions to the global allocation are **Canada** and **Mexico**. Each of these countries has a specific allocation under this quota. However, sugar from Canada and Mexico may enter under the general global quota, if it is still open, before using their specific allocations.

Unlike the raw sugar quota, Certificates of Quota Eligibility are not required for entry under the low tariff rate subheadings of this quota. The one exception to this is **Mexico**, which is required to provide a CQE to obtain the low tariff rates when entering under its specific quota allocation.

The **third and final quota allocation** provided by Additional U.S. Note 5(a)(i) is for **Specialty Sugars**. This is actually a part of the second quota allocation, the so called "Refined Sugar Quota." It currently covers refined sugars classified chiefly in two subheadings: **1701.91.10** and **1701.99.10**. It has a specific quantity allocation, which is based on a first come, first serve basis.

Note that Specialty Sugars may enter under the general refined global quota, before using their specific quota allocation.

Specialty Sugar Certificate

The United States Department of Agriculture (USDA) determines which products can be designated as Specialty Sugars. As per the aforementioned Additional U.S. Note 5(b)(iv), a Specialty Sugar Certificate is required in order to enter sugar under the specific Specialty Sugar quota allocation.

An importer writes a letter to USDA, describing the product, providing technical information and furnishing a sample of the sugar. **The Specialty Sugar Certificate** is actually the **response letter** from USDA to the importer indicating that the product is a Specialty Sugar. This letter must be presented at the time of entry for a sugar to obtain the low tariff rate under this quota. No bond may be taken for this document.

A sugar may be entered at the high tariff rates without a Specialty Sugar Certificate, provided the country is not subject to a United States **embargo**.

Subheading 1701.11.1000

Subheading 1701.11.1000, HTS, provides for Cane or beet sugar and chemically pure sucrose, in solid form: Raw sugar not containing added flavoring or coloring matter: Cane sugar...Described in additional U.S. note 5 to this chapter and entered pursuant to its provisions.

This is the tariff provision for raw cane sugar, which is identified in **the first quota allocation** in additional U.S. note 5(a)(i). It provides for the low tariff rate of duty. The subheading for the high tariff rate of duty is 1701.11.5000, HTS.

Products classified in these provisions must be derived from sugar cane and must be in solid form. The term “solid” includes powders, crystals, etc. It excludes sugar in the form of a liquid or syrup. The products classified in these subheadings cannot contain any added flavoring or coloring matter.

The term **raw sugar** is defined in **Subheading Note 1** to chapter 17: “For the purposes of subheadings 1701.11 and 1701.12, ‘raw sugar’ means sugar whose content of sucrose by weight, in the dry state, corresponds to a polarimeter reading of less than 99.5 degrees.” Polarimetric testing uses optical means to determine the percentage of sucrose in a product.

Sampling of Raw Sugar

Customs Directive 3820-001A dated May 20, 1999 requires that all importations of raw sugar must be sampled and tested by the United States Customs Laboratory. One sample of approximately one pound or 450 grams is required for each 2,100,000 pounds of bulk raw sugar. For raw sugar imported in bags, one bag out of each 100 bags must be sampled, or 10 bags must be sampled, whichever is greater.

The raw sugar must be sampled for various purposes. **First**, to determine the polarity of the sugar for classification. Noting the above referenced Subheading Note 1 to chapter 17, raw sugar must have a polarity of **less than 99.5 degrees**.

Second, sampling is required to determine the dutiable quantity of the raw sugar. Additional U.S. Note 1 to chapter 17 states: “The term ‘degree’ as used in the ‘Rates of Duty’ columns of this chapter means International Sugar Degree as determined by polarimetric test performed in accordance with procedures recognized by the International Commission for Uniform Methods of Sugar Analysis (ICUMSA).” The specific rates of duty for sugar are applied only on the **actual sugar content** of the products as determined by the Customs Laboratory.

Finally, the sampling and testing of raw sugar is required to determine the “**raw value**” of the sugar. This concept is addressed in Additional U.S. Note 5(c) to chapter 17, which provides:

For purposes of this note, the term raw value means the equivalent of such articles in terms of ordinary commercial raw sugar testing 96 degrees by the polariscope as determined in accordance with regulations or instructions issued by the Secretary of the Treasury. Such regulations or instructions may, among other things, provide: (i) for the entry of such articles pending a final determination of polarity; and (ii) that positive or negative adjustments for differences in preliminary and final raw value be made in the same or succeeding quota periods. The principal grades and types of sugar shall be translated into terms of raw value in the following manner--

- (A) For articles described in subheadings 1701.11.05, 1701.11.10, 1701.11.20, 1701.11.50, 1701.12.05, 1701.12.10, 1701.12.50, 1701.91.05, 1701.91.10, 1701.91.30, 1701.99.05, 1701.99.10, 1701.99.50, 2106.90.42, 2106.90.44 and 2106.90.46 by multiplying the number of kilograms thereof by the greater of 0.93, or 1.07 less 0.0175 for each degree of polarization under 100 degrees (and fractions of a degree in proportion).
- (B) For articles described in subheading 1702.90.05, 1702.90.10 and 1702.90.20, by multiplying the number of kilograms of the total sugars thereof (the sum of the sucrose and reducing or invert sugars) by 1.07.
- (C) The Secretary of the Treasury shall establish methods for translating sugar into terms of raw value for any special grade or type of sugar, syrup, or molasses for which he/she determines that the raw value cannot be measured adequately under the above provisions.

The various quota quantity allocations are expressed in terms of raw value. Since sugar is imported at different polarities or degrees of purity, the above concept of raw value is used to standardize sugar shipments at a polarity of **96 degrees**.

The final raw value figures determined by the Customs Laboratory are sent to the **Quota Section** in Customs Headquarters in order to adjust the quota quantities.

Subheading 1701.11.2000 (Re-Export Sugar)

Subheading 1701.11.2000, HTS, provides for Cane or beet sugar and chemically pure sucrose, in solid form: Raw sugar not containing added flavoring or coloring matter: Cane sugar: Other sugar to be used for the production (other than by distillation) of polyhydric alcohols, except polyhydric alcohols for use as a substitute for sugar in human food consumption, or to be refined and re-exported in refined form or in sugar-containing products, or to be substituted for domestically produced raw cane sugar that has been or will be exported.

This tariff provision allows the entry of raw sugar into the United States without the application of a tariff rate quota, provided that the sugar is used in one of **three ways**: to produce a **polyhydric alcohol**, to be **refined and then re-exported**, or to be **refined and re-exported in a sugar containing product**.

This provision, refers to the “**Sugar Re-Export Program**”, which is regulated by the United States Department of Agriculture (USDA).

The requirements for classification under this subheading are stated in Additional U.S. Note 6 of chapter 17. The **first** part of this note simply restates the wording of the tariff provision.

The **second** part of the note states: “The Secretary of Agriculture may issue licenses for such entries and may promulgate such regulations (including any terms, conditions, certifications, bonds, civil penalties, or other limitations) as are appropriate to ensure that sugar entered under subheading 1701.11.20 is used only for such purposes.”

USDA issues a **license** for each of the uses of the raw sugar in subheading **1701.11.2000, HTS**.

A producer of **polyhydric alcohol** can obtain a license in the amount of up to **10,000 short tons, refined value**. The polyhydric alcohol produced from the sugar does not have to be exported, but it cannot be used for human consumption.

A sugar **refiner** can obtain a license for raw sugar in an amount of up to **50,000 metric tons, raw value**. The refined sugar must be exported, or transferred to a manufacturer of sugar containing products no later than **90 days** after the date of entry. A refiner may also import **Mexican** raw cane sugar for further refining without the quantity affecting the refiner’s license balance, if the sugar is re-exported within **30 days** of entry.

A **manufacturer of sugar containing products** can obtain a license for an amount of up to **10,000 short tons, refined value**. The sugar containing product must be exported no later than **18 months** from the date of transfer of a quantity of refined sugar from a refiner.

The Re-Export Program also allows the use of **domestic** (U.S.) raw cane sugar that has or will be exported.

In addition to obtaining a license, entries of sugar under subheading 1701.11.20, HTS, must include a **Summary of Transactions Sheet**. This sheet contains information on the quantity of sugar, date of entry, port of entry, etc. It must be signed by a Customs official, and given to USDA by the importer.

It should be noted that USDA regulates all related matters for this program including, bonds, record keeping, proof of export, penalties, etc.

It is also important to remember that the **Re-Export Program** provided for under subheading 1701.11.2000, HTS, applies only to **raw sugar cane**.

Subheading 1701.12.1000

Subheading 1701.12.1000, HTS, provides for Cane or beet sugar and chemically pure sucrose in solid form: Raw sugar not containing added flavoring or coloring matter: Beet sugar...Described in additional U.S. note 5 to this chapter and entered pursuant to its provisions.

This is the tariff provision for **raw beet sugar**, which is identified in the second quota allocation in additional U.S. note 5 (a)(i). It provides for the low tariff rate of duty. The subheading for the high tariff rate of duty is 1701.12.5000, HTS.

Products classified in these subheadings are similar to raw cane sugar in that they must be in solid form, not contain any added flavoring or coloring matter, and are defined in Subheading Note 1 to chapter 17: “For the purposes of subheadings 1701.11 and 1701.12, “raw sugar” means sugar whose content of sucrose by weight, in the dry state, corresponds to a polarimetric reading of less than 99.5 degrees.”

Subheading 1701.12, HTS, differs from subheading 1701.11, HTS, in that it provides for sucrose derived from sugar beets, instead of sugar cane. It is also noted that there is **no Re-Export Program** for raw sugar derived from beets.

Subheading 1701.91.1000

Subheading 1701.91.1000, HTS, provides for Cane or beet sugar and chemically pure sucrose, in solid form: Other: Containing added flavoring or coloring matter: Containing added coloring but not containing added flavoring matter...Described in additional U.S. note 5 to this chapter and entered pursuant to its provisions.

This is the tariff provision for cane or beet sugar, as well as chemically pure sucrose, containing **added coloring matter**, which is identified in the second quota allocation in additional U.S. note 5(a)(i). It provides for the low tariff rate of duty. The subheading for the high tariff rate of duty is 1701.91.3000, HTS.

Products classified in these provisions are cane or beet sugar, and chemically pure sucrose in solid form, but now they may contain added coloring matter.

Regarding **chemically pure sucrose**, the Explanatory Notes to chapter 17 state: “The heading also includes chemically pure sucrose in solid form, whatever its origin. Sucrose (other than chemically pure sucrose) obtained from sources other than sugar cane or sugar beet is **excluded (heading 17.02)**.”

Generally, the items classified in these provisions consist of a refined cane or beet sugar with a small amount of added coloring, which are used as decorations on cakes, cookies, confectionery, etc.

These provisions do not, however, cover sucrose with added **flavoring matter**, which is provided for in **subheadings 1701.91.42 through 1701.91.80, HTS**, and is subject to the **sugar containing products quotas**, not to the additional U.S. note 5 quotas.

Subheading 1701.99.1000

Subheading 1701.99.1000, HTS, provides for Cane or beet sugar and chemically pure sucrose, in solid form: other: other... Described in additional U.S. note 5 to this chapter and entered pursuant to its provisions.

This tariff provision is identified in the second quota allocation in additional U.S. note 5(a)(i). It provides for the low tariff rate of duty. The subheading for the high tariff rate of duty is 1701.99.5000, HTS.

Products classified in these provisions must be cane or beet sugar or chemically pure sucrose in solid form, which can not be raw sugar, or sucrose with added coloring or flavoring matter.

There are **two main types** of products classified in these provisions. The **first** is **refined** sugar. Subheading note 1 to chapter 17, defined raw sugar as having a content of sucrose by weight, in the dry state, corresponding to a polarimeter reading of less than 99.5 degrees. Therefore, **refined sugar** would have a content of sucrose by weight in the dry state, corresponding to a polarimeter reading of **99.5 degrees or higher**.

The **second** type of product classified in these provisions is a **mixture** of refined sucrose with other substances, when it is determined that the sucrose imparts the essential character to the mixture under GRI 3(b). Examples of these would be mixtures of large quantities of **sucrose** with smaller amounts of the other sugars of chapter 17, such as **dextrose, fructose, lactose** or **maltose**.

Other types of products classified here are mixtures containing predominately **sucrose** with smaller amounts of **starches** or **flours**. It is noted that these mixtures are in solid form, usually consisting of powders, crystals, etc.

Subheading 1702.90.1000

Subheading 1702.90.1000, HTS, provides for other sugars...sugar syrups not containing added flavoring or coloring matter...other, including invert sugar: Derived from sugar cane or sugar beets: Containing soluble non-sugar solids (excluding any foreign substances that may have been added or developed in the product) equal to 6 percent or less by weight of the total soluble solids...Described in additional U.S. note 5 to this chapter and entered pursuant to its provisions.

This is the tariff provision for **sugar syrups**, etc., which is identified in the second quota allocation in additional U.S. note 5(a)(i). It provides for the low rate of duty. The subheading for the high rate of duty is 1702.90.2000, HTS.

These are the last subheadings in chapter 17, which are subject to the tariff rate quota of additional U.S. note 5. They are also the first subheadings subject to this quota, which do not pertain to sugar in solid form.

Products classified in these subheadings include syrups obtained by dissolving sucrose from sugar cane or sugar beets in water, or juices and syrups which are obtained during the extraction of sugars derived from sugar cane or sugar beets. Unlike the sucrose in solid form, these products can not contain any coloring or flavoring matter.

They must also meet the requirement that they contain **6 percent or less soluble non-sugar solids**, when considering the **total soluble solids** in the product. In addition, this calculation **excludes any foreign material** added or developed in the product. Generally, this would refer to materials added in the extraction or refining process.

Since syrups, etc. containing **over 6 percent soluble non-sugar solids** are not subject to tariff rate quotas (subheading 1702.90.4000), samples of merchandise entered under these subheadings are sent to the U.S. Customs laboratory to check the soluble non-sugar solids.

It is also advisable to include information on the soluble non-sugar solids content of the products when entry is made on this merchandise.

Subheadings **1702.90.1000** and **1702.90.2000**, HTS, also cover **invert sugar**., which must be derived from sugar cane or sugar beets. The Explanatory Notes to chapter 17 describe this product as: “**Invert sugar**...is usually prepared commercially by the hydrolysis of refined sucrose solutions and consists of equal proportions by weight of glucose and fructose.”

It should also be noted that sucrose solutions which are **partially inverted** are also covered by these provisions.

Subheading 2106.90.4400

Subheading 2106.90.4400, HTS, provides for syrups derived from cane or beet sugar, containing added coloring but not added flavoring matter... Described in additional U.S. note 5 to chapter 17 and entered pursuant to its provisions.

This is the tariff provision for sucrose syrups with added coloring, which is identified in the second quota allocation in additional U.S. note 5(a)(i). It provides for the low tariff rate of duty. The subheading for the high tariff rate of duty is 2106.90.4600, HTS.

Products classified in these provisions must be syrups which are derived from sugar cane or sugar beets, and contain **added coloring matter**.

These syrups are classified in chapter 21, instead of in chapter 17, because Heading 1702 only provides for “sugar syrups not containing added flavoring or coloring matter....” The Explanatory Notes to chapter 17, under section **(B) Sugar Syrups**, state: “This part covers syrups of all sugars...**provided** they do not contain added flavoring or coloring matter (see Explanatory Note to heading 21.06).”

The syrups in these subheadings cannot contain any added **flavoring matter**. Flavored syrups are provided for in various 2106.90 subheadings, and are subject to the **sugar containing products quotas**, not to the U.S. Note 5 quotas.

High Tariff Rate Subheadings

The **high tariff rate subheadings** previously mentioned included: **1701.11.5000** (raw cane sugar), **1701.12.5000** (raw beet sugar), **1701.91.3000** (sucrose with added coloring), **1701.99.5000** (refined sucrose), **1702.90.2000** (sucrose syrups) and **2106.90.4600** (sucrose syrups with added coloring).

Classification under these subheadings is required for **three** main reasons:

- (1) A quota quantity has not been allocated for a product.
- (2) A quota allocation is filled for a product.
- (3) A product does not satisfy a quota requirement, usually involving specific documentation, which must be presented at the time of entry.

Products classified under the high tariff rate subheadings are also subject to the **safeguard measures** provided in **Chapter 99, Subchapter IV** of the Harmonized Tariff Schedule. The relevant safeguard measures, which are described in **U.S. Notes 1 and 2 to Subchapter IV**, provide for duties based either upon the **value** or the **quantity** of goods imported into the United States for certain agricultural products.

As stated in **U.S. Note 1**: “All of the duties provided for in this subchapter are cumulative duties which apply **in addition** to the duties, if any, otherwise imposed in the tariff schedule on the goods described therein.”

Currently, these additional duties are based on the **value** of the goods as provided for in the various Chapter 99, Subchapter IV subheadings. If it is determined that the additional duties are to be based on quantity, notice must be published in the Federal Register by the Secretary of Agriculture.

These safeguard measures, requiring additional duties, **do not apply** to goods of **Canada** or **Mexico**.

Products classified under the high tariff rate subheadings are **not eligible** for the free rates of duty in the “Special” column in the Harmonized Tariff Schedule.

These preferential duty rates are provided for by the **Andean Trade Preference Act (ATPA)**, the **Caribbean Basin Initiative (CBI)**, the **Generalized System of Preferences (GSP)**, the **United States-Israel Free-Trade Agreement (IFTA)** and the **North American Free Trade Agreement (NAFTA)**. The only “Special” duty rates which are applicable pertain to products from **Mexico** under the NAFTA.

General Note 15

General Note 15 of the Harmonized Tariff Schedule provides for: **“Exclusions**. Whenever any agricultural product of chapters 2 through 52, inclusive, is of a type (i) subject to a tariff rate quota and (ii) subject to the provisions of subchapter IV of chapter 99, entries of such products described in this note shall not be counted against the quantity specified as the in-quota quantity for any such product in such chapters.”

All of the aforementioned sugar cane and sugar beet products include tariff provisions which reference General Note 15. These subheadings include: **1701.11.0500**, (raw cane sugar), **1701.12.0500** (raw beet sugar), **1701.91.0500** (sucrose with added coloring), **1701.99.0500** (refined sucrose), **1702.90.0500** (sucrose syrups), and **2106.90.4200** (sucrose syrups with added coloring).

General Note 15, allows classification under these subheadings, which will not count against the low tariff rate quota quantity allotment, for five circumstances. The **three** which relate to the listed subheadings include:

- (a) such products imported by or for the account of any agency of the U.S. Government;
- (b) such products imported for the personal use of the importer, provided that the net quantity of such product in any one shipment does not exceed 5 kilograms;
- (c) such products, which will not enter the commerce of the United States, imported as samples for taking orders, for exhibition, display or sampling at a trade fair, for research, for use by embassies of foreign governments or for testing of equipment, provided that written approval of the Secretary of Agriculture or his designated representative the United States Department of Agriculture (USDA) is presented at the time of entry.

General Note 15 provides additional instruction regarding **item (c)** above: “In applying to USDA for approval under subdivision (c) of this note, the importer must identify the product, quantity and intended use of the goods for which an exemption is sought. USDA may seek additional information and specify such conditions of entry as

it deems necessary to ensure that the product will not enter the commerce of the United States.”

The subheadings which refer to General Note 15 should not be used to classify quota products unless one of the circumstances listed in **items(a),(b)and(c)**is applicable.

Antidumping/Countervailing Duty

Sucrose derived from sugar cane or sugar beets and imported from certain countries is subject to **antidumping duties** and **countervailing duties**. These duties apply to raw sucrose, sucrose with added coloring, refined sucrose, sucrose syrups, and sucrose syrups with added coloring. These products are classified in the following subheadings: **1701.11.05, 1701.11.10, 1701.11.20, 1701.11.50, 1701.12.05, 1701.12.10, 1701.12.50, 1701.91.05, 1701.91.10, 1701.91.30, 1701.99.05, 1701.99.10, 1701.99.50, 1702.90.05, 1702.90.10, 1702.90.20, 2106.90.42, 2106.90.44, 2106.90.46, HTS.**

It is also noted that mixtures of **sucrose** and **dextrose**, containing at least **65 percent sucrose** are also subject to countervailing duty. These types of mixtures are classified in subheading **1701.99, HTS.**

The antidumping investigation on sucrose derived from sugar cane or sugar beets was initiated in **January of 1960**. The countries, case numbers and dumping duties are:

Belgium	case number A-423-077 (103 percent)
France	case number A-427-078 (102 percent)
Germany	case number A-428-082 (121 percent)
Canada	case number A-122-085 (10.18 percent) <i>(Effective 1/1/2000, dumping duties are no longer applicable for Canada, 64 FR 58035)</i>

The countervailing duty investigation on sucrose derived from sugar cane or sugar beets was also initiated on **January of 1960**.

The countervailing duty rate for all countries is **10.45 cents per pound**. The countries and case numbers are:

Belgium	case number C-423-046
Denmark	case number C-409-046
France	case number C-427-046
Germany	case number C-428-046
Great Britain	case number C-412-046
Ireland	case number C-419-046
Italy	case number C-475-046
Netherlands	case number C-421-046

Sucrose derived from sugar cane or sugar beets, which is determined to be a **Specialty Sugar** by the United States Department of Agriculture **is not subject** to antidumping or countervailing duties.

Country of Origin Marking

The marking statute, section 304, Tariff Act of 1930, as amended (19 U.S.C. 1304), provides that, unless excepted, every article of foreign origin (or its container) imported into the U.S. shall be marked in a conspicuous place as legibly, indelibly, and permanently as the nature of the article (or its container) will permit, in such manner as to indicate to the ultimate purchaser the English name of the country of origin of the article. Part 134 of the Customs Regulations (19 CFR Part 134), implements the country of origin marking requirements and exceptions of 19 U.S.C. 1304.

The “country of origin” for marking purposes is defined by section 134.1(b), Customs Regulations (19 CFR 134.1(b)), to mean the country of manufacture, production, or growth of any article of foreign origin entering the United States. Further work or material added to an article in another country must effect a substantial transformation in order to render such other country the “country of origin.”

Headquarters ruling 082033 dated September 5, 1989 determined that the refining of a raw sugar **is not** a substantial transformation.

This ruling concerned raw sugar from Australia which was refined in Canada. The refining process included **washing** to remove the film of molasses, **melting** into a syrup, **clarification**, **decolorization**, **evaporation** and **crystallization**.

Headquarters stated: “The refining of cane sugar does not create an article with a new name, character or use. The product remains sucrose which, while upgraded by refining, retains the same use as with raw sugar: to provide a product with sweet taste and nutrient value.”

Therefore, the country of origin of a refined sucrose is the country producing the raw sugar, not the country where the sucrose is refined.

Headquarters ruling 086097 dated May 15, 1990 determined that a sucrose syrup produced from raw or refined sugar **is not** a substantial transformation.

This ruling concerned raw or refined crystalline sucrose, which was produced in the United States or India and then sent to Canada for processing into a syrup. The processing in Canada included **pouring** the dry sucrose into a heated tank, where it was **stirred** and **dissolved**. The liquid sugar was then **pumped** through strainers and then through carbonation vessels where **absorption** occurs.

Headquarters stated: "The character of the sugar remains the same: sucrose, whether in crystalline form or syrup, remains sucrose with the same sweetness and nutrient value...Also, the fact that the product is now called a syrup instead of sugar is not dispositive as to whether there has been a substantial transformation."

Therefore, the country of origin of a sucrose syrup is the country producing the crystalline raw or refined sucrose.

The marking rules for sucrose products from **NAFTA** countries (the United States, Mexico and Canada) are found in the **Annex 311** rules for determining the country of origin of NAFTA goods set forth in 19 CFR Part 102. Note T.D. 96-46, published in 61 Federal Register 28932.

Under the NAFTA marking rules, **raw sucrose refined** in a NAFTA country **does not undergo a tariff shift**, and remains a product of the country producing the raw sucrose.

Also, the production of **a sucrose syrup** in a NAFTA country from raw or refined sucrose **does not undergo a tariff shift**, and remains a product of the country producing the crystalline raw or refined sucrose.

ADDITIONAL INFORMATION

The Internet

The U. S. Customs Service's home page on the Internet's World Wide Web, provides the trade community with current, relevant information regarding Customs operations and items of special interest. The site posts information -- which includes proposed regulations, news releases, Customs publications and notices, etc. -- that can be searched, read on-line, printed or downloaded to your person computer. The web site was established as a trade-friendly mechanism to assist the importing and exporting community. The web site links to the Customs Electronic Bulletin Board (CEBB), an older electronic system on which Customs notices and drafts were posted. After December, 1999 the CEBB will be only accessible through the web site. The web site also links to the home pages of many other agencies whose importing or exporting regulations Customs helps to enforce. Customs web site also contains a wealth of information of interest to a broader public than the trade community -- to international travelers, for example.

The Customs Service's web address is <http://www.customs.gov>.

Customs Regulations

The current edition of *Customs Regulations of the United States* is a loose-leaf, subscription publication available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402; telephone 202-512-1800. A bound, 1999 edition of Title 19, *Code of Federal Regulations*, which incorporates all changes to the Customs Regulations from April 1998 through March 1999, is also available for sale from the same address. All proposed and final regulations are published in the *Federal Register*, which is published daily by the Office of the Federal Register, National Archives and Records Administration, and distributed by the Superintendent of Documents. Information about on-line access to the *Federal Register* may be obtained by calling (202) 512-1530 between 7 a.m. and 5 p.m. Eastern time. These notices are also published in the weekly *Customs Bulletin*, described below.

Customs Bulletin

The *Customs Bulletin and Decisions* ("*Customs Bulletin*") is a weekly publication that contains decisions, rulings, regulatory proposals, notices and other information of interest to the trade community. It also contains decisions issued by the U.S. Court of International Trade, as well as Customs-related decisions of the U.S. Court of Appeals for the Federal Circuit. Each year, the Government Printing Office publishes bound volumes of the Customs Bulletin. Subscriptions may be purchased from the Superintendent of Documents at the address and phone number listed above.

Importing Into the United States

This publication provides an overview of the importing process and contains general information about import requirements. The 1998 edition of *Importing Into the United States* contains much new and revised material brought about pursuant to the Customs Modernization Act ("Mod Act"). The Mod Act has fundamentally altered the relationship between importers and the Customs Service by shifting to the importer the legal responsibility for declaring the value, classification, and rate of duty applicable to entered merchandise.

The 1998 edition contains a new section entitled "Informed Compliance." A key component of informed compliance is the shared responsibility between Customs and the import community, wherein Customs communicates its requirements to the importer, and the importer, in turn, uses reasonable care to assure that Customs is provided accurate and timely data pertaining to his or her importations.

Single copies may be obtained from local Customs offices or from the Office of Public Affairs, U.S. Customs Service, 1300 Pennsylvania Avenue NW, Washington, DC 20229. An on-line version is available at the Customs web site. *Importing Into the United States* is also available for sale, in single copies or bulk orders, from the Superintendent of Documents by calling (202) 512-1800, or by mail from the

Superintendent of Documents, Government Printing Office, P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7054.

Video Tapes

The Customs Service has prepared a series of video tapes in VHS format for the trade community and other members of the public. As of the date of this publication, four tapes are available and are described below.

If you would like more information on any of the tapes described below, or if you would like to order them, please send a written request to: U.S. Customs Service, Office of Regulations and Rulings, Suite 3.4A, 1300 Pennsylvania Avenue, NW, Washington, DC 20229, Attn: Operational Oversight Division. Orders must be accompanied by a *check or money order drawn on a U.S. financial institution* and made payable to U.S. Customs Service. Prices include postage.

- *Rules of Origin for Textiles and Apparel Products* is a two-hour tape aimed at increasing understanding of the new rules, which became effective July 1, 1996. Copies of this tape are available from many trade organizations, customs brokers, consultants and law firms, or it can be ordered from the U.S. Customs Service for \$20.00.
- *Customs Compliance: Why You Should Care* is a 30-minute tape divided into two parts. Part I, almost 18 minutes in length, is designed to provide senior executives and others in the importing or exporting business with an overview of the significant features of the Customs Modernization Act and the reasons to adopt new strategies in order to minimize legal exposure under the Act.

Part II is intended primarily for import/export compliance officers, legal departments and company officers. About 12 minutes long, Part II explains why Customs and the trade can benefit from sharing responsibilities under Customs laws. It also provides viewers with legal detail on record keeping, potential penalties for noncompliance, and on the Customs prior-disclosure program. The cost is \$15.00.

- *Account Management: Team Building for World Trade*, a 13-½-minute tape on account management, discusses what account management is and why there is a need for it. Account Management is a new approach to working with the trade in which a company is treated as an account, rather than being dealt with on a transaction by transaction basis. The tape includes discussions with Customs account managers and representatives of importers ("accounts") relating to the benefits of account management from the perspectives of the both the Customs Service and the trade community. The cost is \$15.00.
- *General-Order Warehousing: Rules for Handling Unclaimed Merchandise*, 90 minutes long, was prepared jointly by the Customs Service and the trade

community on the subject of general-order merchandise (unclaimed goods). The tape includes question and answer discussions that define procedures required to implement the new general-order laws and regulations and why there is a need to have effective procedures for handling unclaimed goods. The cost is \$15.00.

Informed Compliance Publications

The U. S. Customs Service has prepared a number of Informed Compliance publications in the “*What Every Member of the Trade Community Should Know About*”: series. As of the date of this publication, the subjects listed below were available.

- ⁴ 1. Customs Value (1/5/96, ⁴Revised 12/99)
- ¹ 2. Raw Cotton: Tariff Classification and Import Quotas (5/13/96)
- ¹ 3. NAFTA for Textiles & Textile Articles (5/14/96)
- ¹ 4. Buying & Selling Commissions (6/96)
- ¹ 5. Fibers & Yarn (8/96)
- ³ 6. Textile & Apparel Rules of Origin (¹ 10/96, Revised 11/98)
- ¹ 7. Mushrooms (10/96)
- ¹ 8. Marble (11/96)
- ¹ 9. Peanuts (11/96)
- ¹ 10. Bona Fide Sales & Sales for Exportation (11/96)
- ² 11. Caviar (2/97)
- ² 12. Granite (2/97)
- ² 13. Distinguishing Bolts from Screws (5/97)
- ² 14. Internal Combustion Piston Engines (5/97)
- ² 15. Vehicles, Parts and Accessories (5/97)
- ² 16. Articles of Wax, Artificial Stone and Jewelry (8/97)
- ² 17. Tariff Classification (11/97)
- ² 18. Classification of Festive Articles (11/97)
- ³ 19. Ribbons & Trimmings (1/98)
- ³ 20. Agriculture Actual Use (1/98)
- ³ 21. Reasonable Care (1/98)
- ³ 22. Footwear (1/98)
- ³ 23. Drawback (3/98)
- ³ 24. Lamps, Lighting and Candle Holders (3/98)
- ³ 25. NAFTA Eligibility and Building Stone (3/98, Revised 12/98)
- ³ 26. Rules of Origin (5/98)
- ³ 27. Records and Recordkeeping Requirements (6/98)
- ³ 28. ABC's of Prior Disclosure (6/98)
- ³ 29. Gloves, Mittens and Mitts (6/98)
- ³ 30. Waste & Scrap under Chapter 81 (6/98)
- ³ 31. Tableware, Kitchenware, Other Household Articles and Toilet Articles of Plastics (11/98)
- ³ 32. Textile & Apparel Rules of Origin Index of Rulings (11/98)
- ⁴ 33. Knit to Shape Apparel Products (1/99)

- ⁴ 34. Hats and Other Headgear (under HTSUS 6505) (3/99)
- ⁴ 35. Customs Enforcement of Intellectual Property Rights (6/99)
- ⁴ 36. Classification of Children's Apparel (6/99)
- ⁴ 37. Accreditation of Laboratories and Gaugers (9/99)
- ⁴ 38. Classification of Sets (9/99)
- ⁴ 39. Marking Requirements for Wearing Apparel (9/99)
- ⁴ 40. Fiber Trade Names & Generic Terms (11/99)
- ⁴ 41. NAFTA Country of Origin Rules for Monumental & Building Stone (12/99)
- 42. Diodes, Transistors & Similar Semiconductor Devices (1/2000)
- 43. Soldering and Welding Machines and Apparatus (1/2000)
- 44. Cane and Beet Sugar (Quota, Classification & Entry) (1/00, Revised 2/2000)

■ indicates publications which are, or will be, available for downloading from the Customs Electronic Bulletin Board or through Customs Home Page on the Internet: <http://www.customs.gov>;

¹ denotes reprinted in 30/31 *Customs Bulletin No.50/1*, January 2, 1997;

² denotes reprinted in 32 *Customs Bulletin No.2/3*, January 21, 1998;

³ denotes reprinted in 32 *Customs Bulletin No. 51*, December 23, 1998.

⁴denotes reprinted in 33 *Customs Bulletin No. 51*, December 22, 1999

Check the Customs Electronic Bulletin Board and the Customs Internet website for more recent publications.

Value Publications

Customs Valuation under the Trade Agreements Act of 1979 is a 96-page book containing a detailed narrative description of the customs valuation system, the customs valuation title of the Trade Agreements Act (§402 of the Tariff Act of 1930, as amended by the Trade Agreements Act of 1979 (19 U.S.C. §1401a)), the Statement of Administrative Action which was sent to the U.S. Congress in conjunction with the TAA, regulations (19 CFR §§152.000-152.108) implementing the valuation system (a few sections of the regulations have been amended subsequent to the publication of the book) and questions and answers concerning the valuation system. A copy may be obtained from the U.S. Customs Service, Office of Regulations and Rulings, Value Branch, 1300 Pennsylvania Avenue, NW, Washington, D.C. 20229.

Customs Valuation Encyclopedia (with updates) is comprised of relevant statutory provisions, Customs Regulations implementing the statute, portions of the Customs Valuation Code, judicial precedent, and administrative rulings involving application of valuation law. A copy may be purchased for a nominal charge from the Superintendent of Documents, Government Printing Office, P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7054.

The information provided in this publication is for general information purposes only. Recognizing that many complicated factors may be involved in customs issues, an importer may wish to obtain a ruling under Customs Regulations, 19 CFR Part 177, or obtain advice from an expert (such as a licensed Customs Broker, attorney or consultant) who specializes in Customs matters. Reliance solely on the general information in this pamphlet may not be considered reasonable care.

Additional information may be also be obtained from Customs ports of entry. Please consult your telephone directory for a Customs office near you. The listing will be found under U.S. Government, Treasury Department.

“Your Comments are Important”

The Small Business and Regulatory Enforcement Ombudsman and 10 regional Fairness Boards were established to receive comments from small businesses about federal agency enforcement activities and rate each agency’s responsiveness to small business. If you wish to comment on the enforcement actions of U.S. Customs, call 1-888-REG-FAIR (1-888-734-3247).

REPORT SMUGGLING 1-800-BE-ALERT



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